IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 619 of 2007(W)

PETITIONER:

P.V. JOY, PUTHENPURAYIL HOUSE,
KURISUPARA, VATTAYA, IDUKKI DISTRICT.

BY ADV. SRI.P.P.JACOB
SRI.N.T.SATHYAVAN

RESPONDENTS:

1. THE DEPUTY DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT,
THODUPUZHA POST, IDUKKI DISTRICT.

2. PALLIVASAL KSHEEROLPADAKA
CO-OPERATIVE SOCIETY LTD.NO.I.57(D),
KALLAR, VATTAYAR P.O., ADIMALI, REPRESENTED
BY ITS ADMINISTRATOR/ADMINISTRATIVE COMMITTEE.

3. K.P. JOSEPH, KIZHAKKETHIL,
KALLAR, VATTAYAR P.O., IDUKKI DISTRICT.

BY ADV. SRI.P.K.VIJAYAMOHANAN
GOVERNMENT PLEADER SHRI.P.K.RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 619/2007.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE NOTICE DTD.13.9.2006 BY R2.

P2. COPY OF THE JUDGMENT IN O.P.NO.835/97 OF THIS COURT.

P3. COPY OF THE ORDER BY R1 DTD. 31.12.2006.

P4. COPY OF THE ENQUIRY REPORT DTD.21.11.2006.

P5. COPY OF THE ORDER OFR3.12.12.2006.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

==========

W.P.(C).No.619 of 2007

==========

Dated this the 7th day of March, 2007

J U D G M E N T

The petitioner is a member of the 2nd respondent society, and a former managing committee member and president. He has approached this court seeking a direction to the 1st respondent not to entertain any application challenging Ext.P5 punishment order passed against the third respondent who is an employee of the 2nd society, under Rule 176 of the Kerala Co-operative Societies Rules on the ground that the 1st respondent has no jurisdiction or power to entertain any such application. I am afraid that I cannot foreclose the 1st respondent from entertaining an application under Rule 176, since the rules empower the 1st respondent to entertain application under Rule 176, if the conditions prescribed in Rule 176 exist. There is no law which prevents the 1st respondent from exercising

jurisdiction under Rule 176 in disciplinary proceedings, if the conditions prescribed in the rule exist. Whether such conditions for exercise of such powers exist or not, is a jurisdictional fact, which has to be decided by the 1st respondent himself. That being so, I am of opinion that I cannot now issue a direction to the 1st respondent not to entertain any Rule 176 application that is or may be filed by the third respondent. For that reason, I do not find any merit in this writ petition and accordingly the same is dismissed.

sdk+ S.SIRI JAGAN, JUDGE